



US Army Corps
of Engineers®

Nashville District

Public Notice

Public Notice No. **05-86**

Date: **24 January 2006**

Application No. **2005-00733**

Expires: **10 February 2006**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
(Attn: Kathleen J. Kuná)
3701 Bell Road, Nashville, TN 37214
kathleen.j.kuna@usace.army.mil

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
STATE OF ALABAMA

SUBJECT: Proposed Discharge of Fill Material into 2.45 acres of wetlands for the construction of the Orchard Farms residential subdivision, Madison County, Alabama

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army Permit pursuant to **Section 404 of the Clean Water Act** (CWA). Before a permit can be issued, certification must be provided by the Alabama Department of Environmental Management, pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: **Orchard Farms, LLC**
Richard Brown
7595 Highway 72 West
Madison, AL 35758

LOCATION: The northwest corner of the intersection of David Douglass and Kelly Springs Road. The wetland is adjacent to an unnamed tributary to Dry Creek Mile 1.0 Right Bank. USGS Jeff, AL Quad Map; Latitude 34° 48' 58.7" N, Longitude 86° 41' 50.2" W.

DESCRIPTION: There are a total of 6.57 acres of wetlands located within the 57-acre site. The site has been altered by previous farming practices and is currently used for pasture. The proposed action is the discharge of approximately 5,000 cubic yards of clean fill material into 2.45 acres of these wetlands associated with the construction of the proposed Orchard Farms Subdivision. A wetland delineation, prepared by Tetra Tech EM, Inc., was submitted with the permit application. The Corps of Engineers verified the findings of the delineation by letter dated July 8, 2005.

MITIGATION: The applicant proposes to mitigate for the loss of wetlands at a 2:1 ratio by the purchase of 4.9 acres of wetland credits from the Ed Hembree Wetland Bank for the 2.45 acre wetland loss.

Plans of the proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An Environmental Assessment will be prepared by this office prior to a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review

constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any federally-listed, threatened, or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

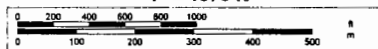
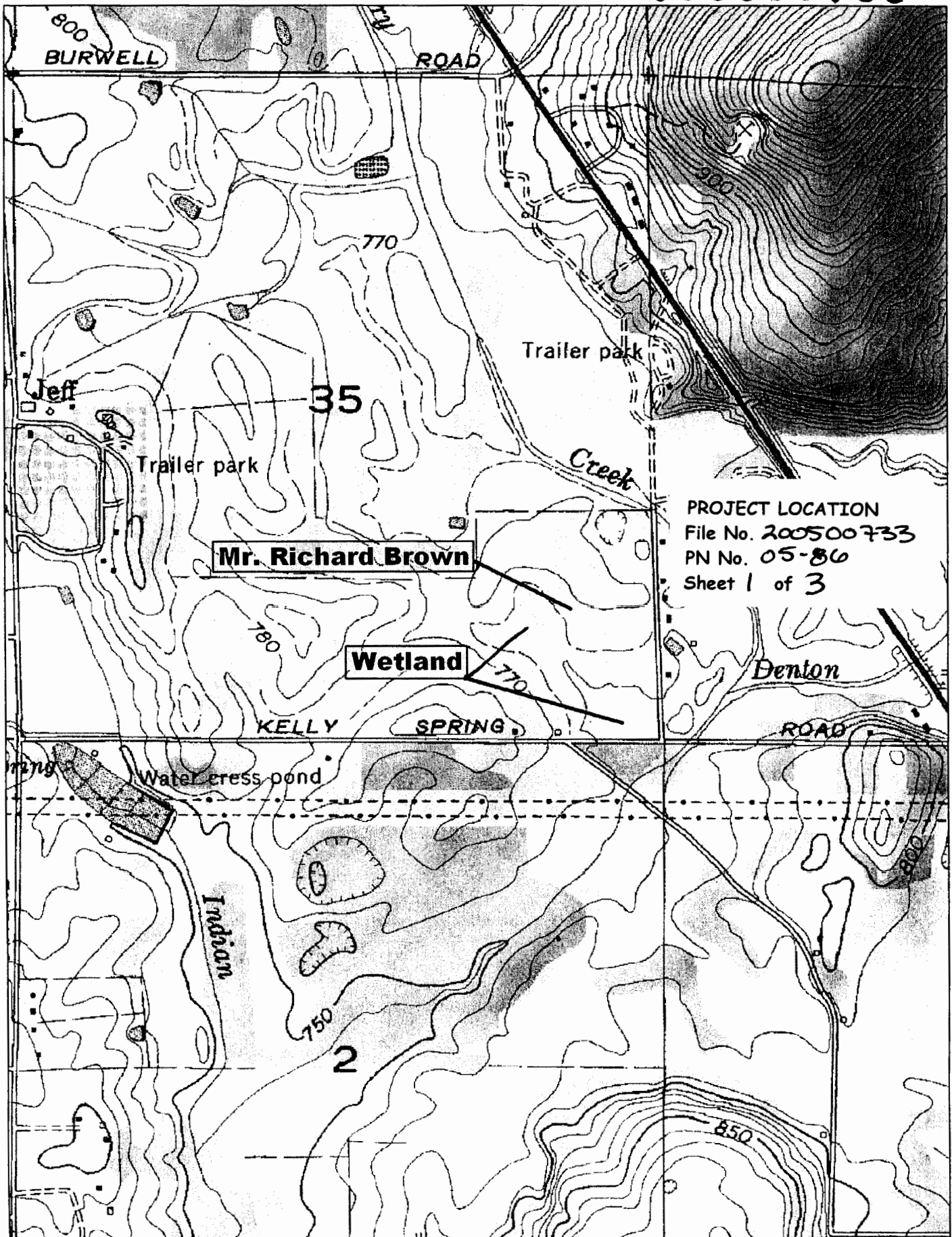
Other federal, state, and/or local approvals required for the proposed work are as follows:

Water quality certification from the state of Alabama Department of Environmental Management (ADEM) in accordance with Section 401(a)(1) of the CWA.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

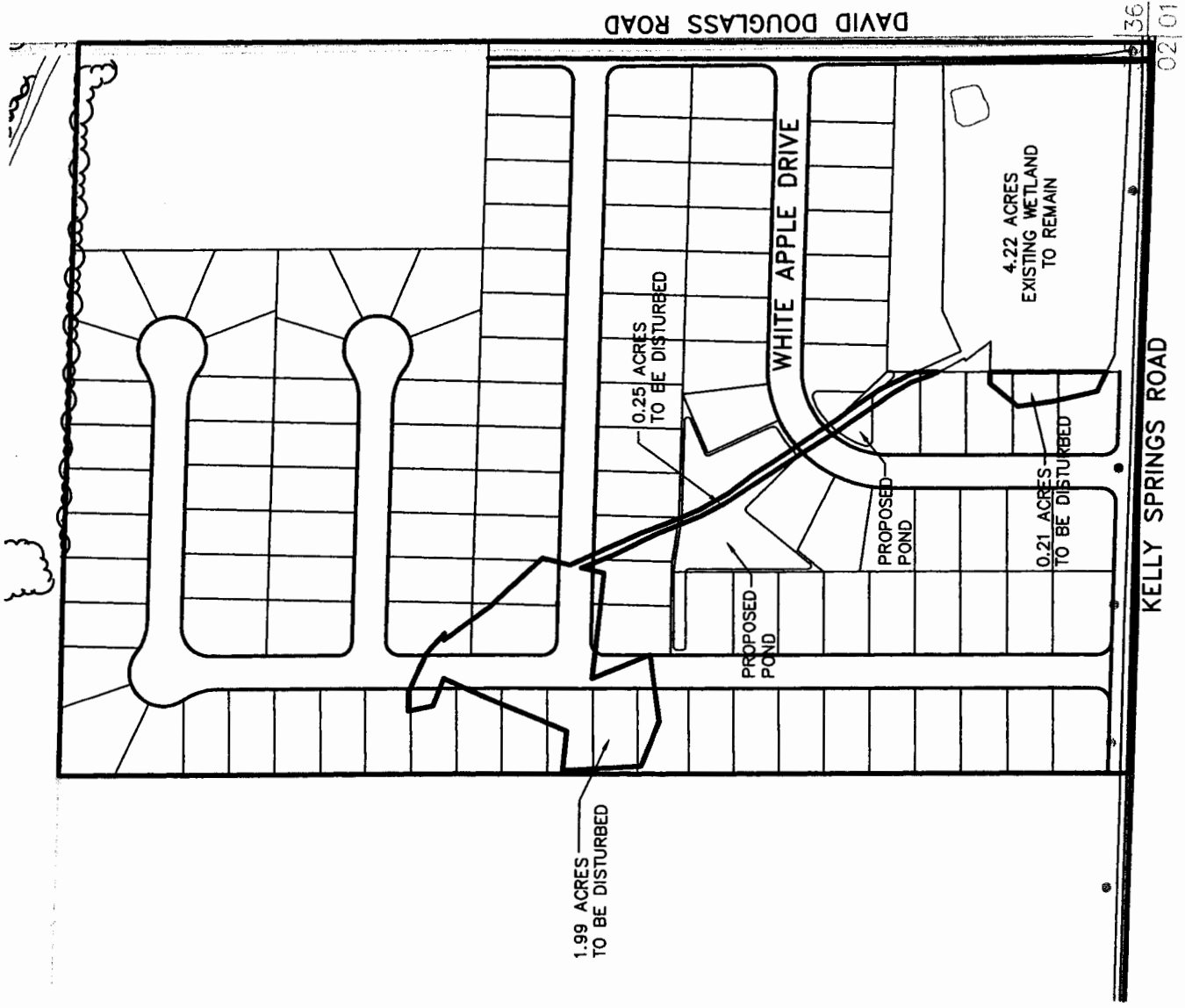
Written statements received in this office on or before February 10, 2006 will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Kathleen Kuná, at the above address, telephone (615) 369-7506, or at kathleen.j.kuna@usace.army.mil

It is not necessary to comment separately to ADEM since copies of all comments will be sent to them and will become part of their record on the proposal. However, if comments are sent to ADEM can be sent directly to Lee Anne Post, P.O. Box 301463, Montgomery, AL 36130, telephone (334) 394-4308.

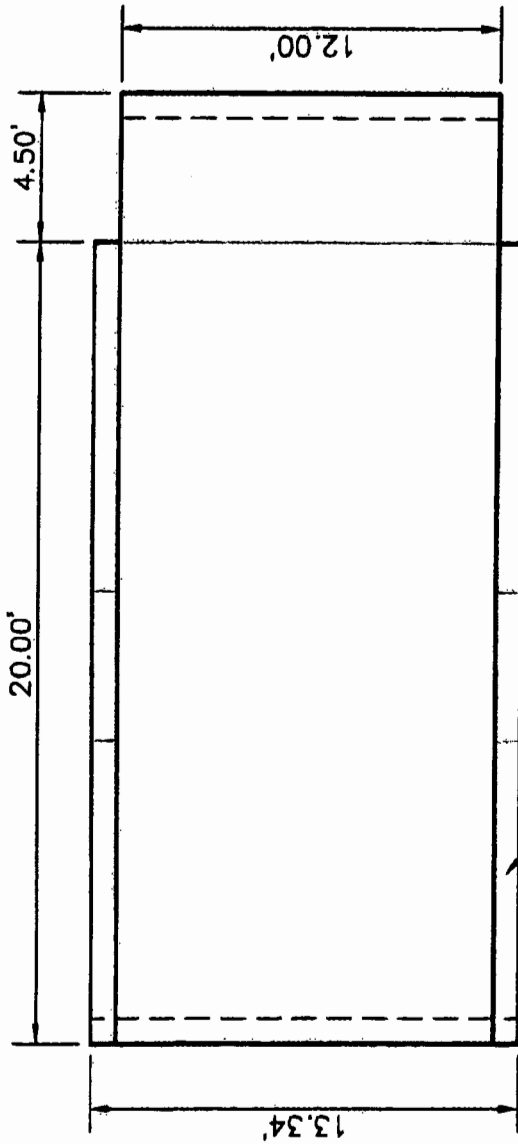


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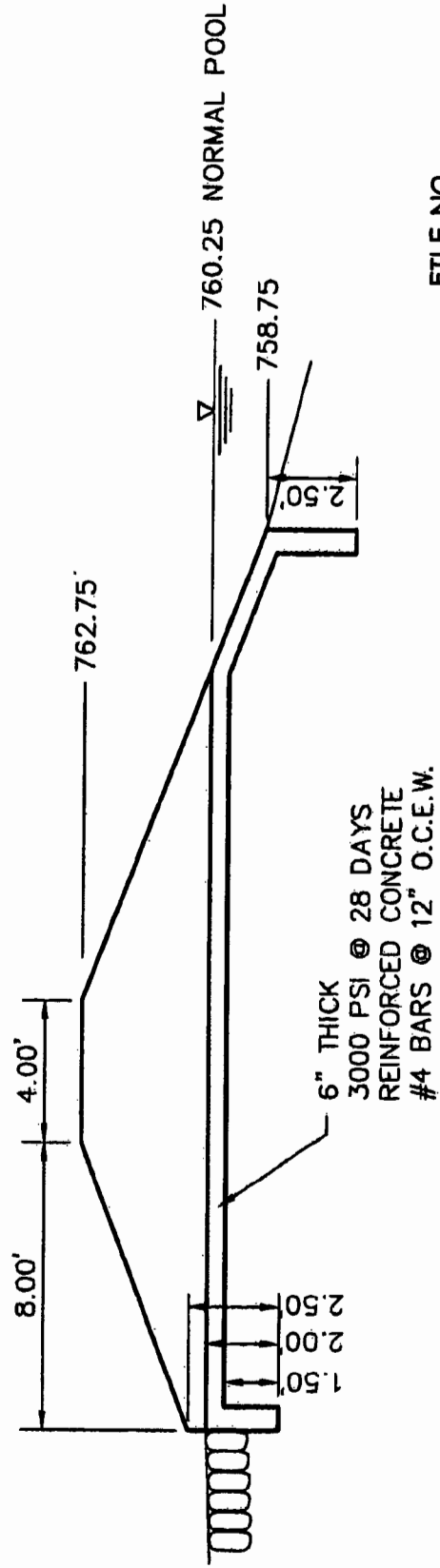


36
02 01



8" THICK
3000 PSI @ 28 DAYS
REINFORCED CONCRETE
#4 BARS @ 12" O.C.E.W.

THIS CONCRETE SPILLWAY
IS REQUIRED BY
MADISON COUNTY
ENGINEERING DEPARTMENT



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POND SPILLWAY STRUCTURE
NOT TO SCALE